IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

STATE OF WASHINGTON, Respondent, v. LEVI WILLIAMS, Appellant.	)	DIVISION ONE No. 63236-1-I UNPUBLISHED OPINION FILED: March 8, 2010

Dwyer, A.C.J. — An officer may briefly stop and detain a person he reasonably suspects has committed a crime. After Officer Franklin Poblocki saw Levi Williams engage in behavior that appeared to be a narcotics transaction, he detained Williams and obtained Williams's permission to search him. Because substantial evidence in the record supports the trial court's finding that Officer Poblocki had a reasonable, articulable suspicion that Williams was engaged in criminal activity, the court properly denied Williams's motion to suppress the cocaine Officer Poblocki found in his search. Accordingly, we affirm.

FACTS

On May 12, 2008 at 2:00 p.m., police officers Franklin Poblocki and Tad Willoughby were patrolling Second Avenue and Yesler, a high drug area in Seattle.

The officers watched this area from the second floor of the Smith tower, using a monocular.

Officer Willoughby recognized a man named Charles H. Moore, a known crack cocaine user. The officers saw Moore approach Levi Williams. Williams and Moore had a brief conversation and Williams handed Moore a small package. Moore inspected the package and then gave Williams paper money. After the exchange, Moore and Williams walked in opposite directions. Although the officers could not see what was in the package, based on his experience and training, Officer Poblocki thought it was probably a narcotics transaction.

About half an hour later, Officer Poblocki saw Williams again. Officer Poblocki was making an unrelated arrest and Williams asked Officer Poblocki for a light. Officer Poblocki recognized Williams based on his clothing and asked Williams to "hold on" and wait while he finished the arrest, approximately three to six minutes.

Officer Poblocki asked Williams if he had drugs on him and Williams said, "No, of course not." Officer Poblocki asked Williams if he could search him for drugs. Williams took a step toward Officer Poblocki, held both his hands up and said, "[G]o ahead." Officer Poblocki asked Williams to put his hands on his head and when he did, Officer Poblocki could see two rocks of crack cocaine in Williams's pocket. Officer Poblocki informed Williams that he was under arrest.

The State charged Williams with possession of cocaine, in violation of the Uniform Controlled Substances Act.[1] Williams filed a CrR 3.6 motion to suppress the cocaine Officer Poblocki found when he searched Williams, arguing that Officer

[1] Ch. 69.50 RCW.

Poblocki did not have reasonable, articulable suspicion that Williams was engaged in criminal activity that would warrant a Terry stop.[2]

Officer Poblocki and Williams testified at the CrR 3.6 hearing. The court found that Officer Poblocki had a reasonable and articulable suspicion that a crime had occurred and it was reasonable for Officer Poblocki to stop Williams. The court also concluded that the search of Williams was valid and consensual and the cocaine in Williams's pocket provided probable cause for Officer Poblocki to arrest Williams.

The jury found Williams guilty as charged. Williams appeals.

DISCUSSION

Williams asserts that the trial court erred in denying his motion to suppress because Officer Poblocki did not have reasonable, articulable suspicion that Williams was engaged in criminal activity that would warrant a Terry stop.

We review findings of fact after a suppression hearing to determine whether they are supported by substantial evidence in the record. State v. O'Neill, 148 Wn.2d 564, 571, 62 P.3d 489 (2003). "'Substantial evidence is evidence sufficient to persuade a fair-minded, rational person of the truth of the finding.'" State v. Vickers, 148 Wn.2d 91, 116, 59 P.3d 58 (2002) (quoting State v. Mendez, 137 Wn.2d 208, 214, 970 P.2d 722 (1999)). The party challenging a finding of fact has the burden of demonstrating the finding is not supported by substantial evidence. Vickers, 148 Wn.2d at 116. Unchallenged findings are verities on appeal. O'Neill, 148 Wn.2d at 571. We review conclusions of law de novo. State v. Johnson, 128 Wn.2d 431, 443, 909 P.2d 293

[2] A Terry stop is a brief investigative detention. Terry v. Ohio, 392 U.S. 1, 88 S. Ct. 1868, 20 L. Ed. 2d 889 (1968).

(1996).

To justify a Terry stop under the Fourth Amendment and article I, section 7 of the Washington Constitution, a police officer must be able to "point to specific and articulable facts which, taken together with rational inferences from those facts, reasonably warrant that intrusion." Terry, 392 U.S. at 21; State v. Day, 161 Wn.2d 889, 896, 168 P.3d 1265 (2007). Without a warrant, an officer may briefly stop and detain a person he reasonably suspects has committed or is about to commit a crime. Terry, 392 U.S. at 21; Day, 161 Wn.2d at 896. "A reasonable suspicion is the 'substantial possibility that criminal conduct has occurred or is about to occur.'" State v. Lee, 147 Wn. App. 912, 916, 199 P.3d 445 (2008) (quoting State v. Kennedy, 107 Wn.2d 1, 6, 726 P.2d 445 (1986)).

"In evaluating the reasonableness of an investigative stop, courts consider the totality of the circumstances, including the officer's training and experience, the location of the stop, and the conduct of the person detained." State v. Acrey, 148 Wn.2d 738, 747, 64 P.3d 594 (2003). Courts may also consider the purpose of the stop and the length of time the officer detained the suspect. Acrey, 148 Wn.2d at 747. If the initial stop was unlawful, the evidence obtained in a subsequent search is inadmissible under the exclusionary rule. Kennedy, 107 Wn.2d at 4.

The trial court's finding that Officer Poblocki had a reasonable and articulable suspicion that a crime had occurred is supported by substantial evidence in the record. At the CrR 3.6 hearing, Officer Poblocki testified that he saw Moore, a known crack cocaine user, approach Williams, and engage in a brief conversation with him. Officer

Poblocki then saw Williams hand Moore a small package. After inspecting the package, Moore handed Williams paper money, then the two men walked in opposite directions. Based on his experience and training, Officer Poblocki testified, "I believed that it was probably a narcotics transaction." Because the trial court's finding of reasonable and articulable suspicion is supported by this substantial evidence in the record, the trial court did not err in concluding that the stop was permissible and by admitting the evidence found in Officer Poblocki's consensual search of Williams.

We affirm.

Dwyer, A.C.J.

We concur: